BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

VIRGINIA L. GRAHAM (CLARK)
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-58
Case No. 68-4653

S.S.A. No.

NORTH AMERICAN ROCKWELL CORPORATION
AEROSPACE & SYSTEMS GROUP
(Employer)

Employer Account No. --- ---

The employer appealed from Referee's Decision No. S-21530 which held the claimant was entitled to unemployment insurance benefits under section 1264 of the Unemployment Insurance Code, and not disqualified for benefits under section 1256 of the code and the employer's reserve account not relieved of benefit charges under sections 1030 and 1032 of the code. The decision further held the claimant was not ineligible for benefits under subdivision (c) of section 1253 of the code.

On February 4, 1969 this board ordered an additional hearing for the sole purpose of obtaining additional evidence with respect to whether the claimant was the major support of her family both at the time of leaving work and at the time of filing her claim for benefits. We retained jurisdiction for purposes of issuing a decision with respect to all issues properly before us. The transcript of this latest hearing, together with the transcripts of both the prior hearings, is now before us for consideration.

Written argument has been received from the claimant and the employer.

STATEMENT OF FACTS

The claimant was employed by the above named aerospace company beginning February 15, 1960. When she quit on July 26, 1968 she was a senior key punch operator earning $3.18 per hour working in the employer's Downey, California plant.

She voluntarily left this job to marry her fiance who resided and was employed in Weimar, California, a location over 400 miles from Downey.

The claimant's fiance had been visiting her in Southern California. He was scheduled to report back to his employment in Weimar on Monday, July 29, 1968. Because the claimant wished to accompany her fiance to the intended site of their future residence and because they had planned to be married on August 4, 1968, the claimant traveled with him by automobile to the northern part of the state on July 27, 1968.

From the time of her arrival in Weimar until her marriage in Reno, Nevada, on August 8, 1968, the claimant resided with her future in-laws. The marriage was delayed beyond the August 4 date originally set because the claimant's fiance was unable to secure an earlier leave of absence from his job.

During this period of residence with her future in-laws, and prior to her marriage, the claimant filed her claim for unemployment insurance benefits on July 29, 1968. She had been paying them a nominal sum for subsistence and in all other respects was her sole support prior to her marriage.

She was also self-sufficient at the time she left her employment in Downey. She was residing alone at that time and receiving no financial assistance from her parents or sister, her only relatives.

The claimant was not supporting her parents or her sister either at the time of leaving her job with the employer herein or on the day she filed her claim for benefits.

The claimant offered no restrictions to her availability for new work; she expressed a willingness to work in several occupations and at the prevailing wage offered for such services within commuting radius of her residence in Weimar, California. The Department supported her contention that there was a potential labor market for her services in the area of her residence.

REASONS FOR DECISION

We conclude, as a matter of law, that the claimant has met the eligibility provisions of section 1253(c) of the code which requires a claimant be "able to work and available for work."

Section 1256 of the Unemployment Insurance Code provides that a claimant shall be disqualified from receiving benefits if she left her most recent work voluntarily and without good cause. In this event, the employer's reserve account may be relieved of benefit charges under sections 1030 and 1032 of the code.

We recently reaffirmed a long recognized criterion for the determination of "good cause" when we stated in Appeals Board Decision No. P-B-27 that good cause for the voluntary leaving of work exists when the facts disclose a real, substantial and compelling reason of such nature as would cause a reasonable person genuinely desirous of retaining employment to take similar action.

Except for the circumstance of her fiance's inability to secure a leave of absence, the claimant in the present case would have been married as planned on August 4, 1968. This circumstance was beyond the claimant's control and was not contemplated prior to her resignation and leaving of work. To hold that a woman in this situation did not have good cause and was subject to disqualification under section 1256 of the code would in effect be to place a hindrance upon the establishment of the marital relationship. While this factor alone would not be sufficient reason to find that such a leaving is not disqualifying, considerations of logic and social expediency also bring us to the same conclusion.

We hold that a woman who leaves her work in order to marry a man who has an established home and employment in a community sufficiently far removed from that of the woman's last employment to make it impossible for her to establish her home at her husband's residence and continue to work at her former residence has good cause for such leaving. Were she not to leave her work under those circumstances, she could not establish a home with her new husband. Since the establishment of a home with her husband is an integral and inseparable part of a woman's marital obligation, the only way in which she could avoid leaving her last employment would be to forego her marriage plans or else to enter into a marital relationship that bears only the most remote resemblance to that normally contemplated. We do not believe that the legislature intended such a result. The claimant left work with good cause within the meaning of section 1256 of the code. Accordingly, the employer's reserve account may not be relieved of benefit charges under sections 1030 and 1032 of the code.

Under the provisions of section 1264 of the code, a claimant is rendered ineligible for unemployment insurance benefits for the period of unemployment ensuing after her leaving of work to be married and until she subsequently secures bona fide employment even though good cause existed for her voluntary leaving of work, unless she was the major support of her family at the time she left work and at the time she filed her claim for benefits. The claimant in the present case is clearly ineligible under this section of the code unless she comes within the major support exception.

The major support exception to the general rule of ineligibility when leaving employment to be married should, in our opinion, be subject to the rule that it be strictly but reasonably construed (Crawford, Statutory Construction, Section 239 (1940 ed.)). Any claimant who claims benefits and attempts to avoid the ineligibility provision of section 1264 must affirmatively establish that she was the major support at each of the times set forth in the escape clause.

In this context we must examine the Department's definition of "family" set forth in its regulation, section 1264-1(c), Title 22, of the California Administrative Code. A claimant's "family" is comprised of a claimant's spouse, or parent, child, brother, sister, grandparent, or grandchild . . . whether or not the same live in a common household." In Regulation Decision No. 21 (decided December 18, 1953) we held this definition was in accord with the context and purpose of the statute and that the definition met the twin tests of reasonability and consistency.

Although a word of variable meaning under a variety of circumstances (see 16 Words and Phrases, page 344 et seq. (West Publishing Company, 1964)), we continue to believe that support is given to the expression of legislative intent in section 1264 of the code by recognizing a "family" as a collective body; one individual cannot constitute a family, because in adopting the provisions of section 1264, the legislature envisaged reciprocal, natural and moral duties of support and care.

This is not of course a novel approach to construing the major support provision of the code, for in Benefit Decision No. 6608 we strictly interpreted the Department's definition of "domestic duty" in subdivision (b) of the regulation now under consideration. We considered that provision in pari materia to the definition of "family" in subdivision (c), and we held that since a claimant's nieces and nephews were not included in the Department's definition of "family," a claimant who left her work to care for such distant relatives did not leave her work for a "domestic duty."

Furthermore, the twin tests of reasonability and consistency required by us in Regulation Decision No. 21, supra, make it essential that the definition encompass single as well as married claimants. If it did not, the definition and hence the promulgated regulation would be discriminatory and invalid. All claimants must be subject to the same standards whether they be married or unmarried (Benefit Decisions Nos. 6194 and 6322).

Proceeding then to an application of the definition to a multitude of possible relationships, we have sought

to relate a claimant's family status to an identifiable group (compare Benefit Decision No. 6422 with Benefit Decision No. 6706), or at the very least to one other person, usually a minor child, to whom a duty of support was owed when an immediate family or economic unit larger in size could not otherwise be readily ascertained (Benefit Decisions Nos. 6316, 6319 and 6320).

The logic of our choice of a claimant's immediate family as the group to which he or she may properly be attached, in preference to a more distant group or household, is again found in the fact that the former group is the one which the claimant is primarily obligated to support or from which he or she derives subsistence.

In Benefit Decision No. 6321, for example, we took pains to point out that the relationships envisaged in subdivision (c) of the regulation appertained to a claimant's blood relatives as opposed to step relatives or foster relatives; and, in Benefit Decision No. 6326 we reiterated the underlying rationale for this and similar holdings when we stated that a claimant's blood relatives were the ones to whom the claimant owed the primary duty of support. This was so even though the claimant's resignation was motivated by concern over the health of his mother (Benefit Decision No. 6321) and grandmother (Benefit Decision No. 6326) and not for any consideration connected with the welfare of his immediate family.

These cases, therefore, suggest the following principles which we now adopt: A family unit is exemplified by reciprocal legal and moral duties of care and support, such as found under circumstances of parental responsibility or filial obligation. Once such a unit is identified, the reason which impels a claimant to leave work becomes irrelevant to a determination of family status. It is thus not essential that family status be measured in terms of the circumstances causing a resignation, and language which may be otherwise construed (see Benefit Decisions Nos. 6194, 6321 and 6676) is expressly disapproved. If the record fails to disclose an identifiable family unit, a claimant is, perforce, ineligible to receive benefits

without regard to whether he or she is self-supporting prior to filing a claim for benefits. He or she fails to qualify as a "family" within the meaning of the section 1264 escape clause.

In the present case, the claimant's family was not the group comprised of her future in-laws. The claimant's family at the time she left work and when she filed her claim for benefits consisted of her parents and her sister from whom she chose to live separate and apart. Since she was not their major support, however, either at the time she left her work in Downey or when she filed her claim for benefits in Weimar, she must be held ineligible for benefits under section 1264 of the code. The fact that she was self-supporting at both times and was receiving no financial assistance herself from these individuals, and in all other respects was a femme sole, is immaterial.

Those portions of the reasoning in Benefit Decisions Nos. 6362 and 6370 which express views contrary to those expressed herein are hereby disaffirmed.

DECISION

The decision of the referee is modified. The claimant is not disqualified for benefits under section 1256 of the code and the employer's reserve account is not relieved of benefit charges under sections 1030 and 1032 of the code. The claimant is not ineligible for benefits under subdivision (c) of section 1253 of the code. She is ineligible to receive benefits under section 1264 of the code.

Sacramento, California, November 25, 1969

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

CLAUDE MINARD

JOHN B. WEISS

DISSENTING - Written Opinion Attached

LOWELL NELSON

DON BLEWETT

DISSENTING OPINION

We have no disagreement with the majority opinion insofar as it holds that the claimant voluntarily left her most recent work with good cause and that she was available for work. We are concerned, however, with that portion of the decision which holds that the claimant is not entitled to the benefit of the so-called escape clause contained in section 1264 of the code relating to major support.

In Benefit Decision No. 6362 we considered a situation in which a claimant voluntarily left her work in Eureka, California on December 4, 1954 and travelled to Pinedale, Wyoming to be married. Her husband-to-be was employed and resided in that area. At the time she left her work the claimant was residing alone and was self-supporting. The marriage was delayed for financial reasons when the husband-to-be became unemployed and was, in addition, required to assume the care of his stepfather. The claimant was not yet married when she filed her claim for benefits on December 10, 1954, and had continued to be self-supporting. We stated.

> "Since the claimant left her work to become married, her eligibility for benefits must be considered in the light of Section 1309 of the code (now section 1264 of the code). At the time she left her work and at the time she filed her claim, the claimant was a single person and was self-supporting. Although she was not a member of a family in the ordinary sense, she was entitled to the benefits of the 'major support' proviso in Section 1309 of the code, and consequently, was not ineligible by reason of that section."

This decision was issued on September 23, 1955, and was subsequently cited in support of a similar result reached in Benefit Decision No. 6370. It has since been consistently followed in a number of subsequent decisions.

Consistent administrative construction of a statute over many years, particularly when it originated with those charged with putting statutory machinery in effect, is entitled to great weight and will not be overturned unless clearly erroneous (Di Giorgio Fruit Corporation v. Department of Employment (1961), 56 C. 2d 54; 13 Cal. Rptr. 663; 362 P. 2d 487). The construction of a statute by the officials charged with its administration must be given great weight for their "substantially contemporaneous expressions of opinion are highly relevant and material evidence of the probable general understanding of the times and the opinions of men who probably were active in the drafting of the statute." When an administrative interpretation is of long-standing and has remained uniform, it is likely that numerous transactions have been entered into in reliance thereon, and it could be invalidated only at the cost of major readjustments and extensive litigation (see Whitcomb Hotel, Inc. v. Cal. Emp. Com. (1944), 24 C. 2d 753, and cases cited therein).

We have previously noted herein our consistent construction of section 1264 of the code as applied to factual situations similar to the instant case. Although numerous bills have been introduced in the State Legislature over the years to amend, and indeed, repeal section 1264 of the code, the text still remains unchanged since its original enactment in 1953. The same is true of Administrative Regulation No. 1264-1 which was adopted shortly after enactment of the statute. Under these circumstances, it is our opinion that such long-standing and consistent interpretation of the statute should not be overturned except for weighty reasons. We do not find the reasoning of the majority opinion to be so persuasive as to justify the overturn of our long-standing and consistent interpretation of the statute.

In this case the issue of the claimant's initial ineligibility for benefits under section 1264 of the code arose because she left her employment to be married, not because of any marital or domestic duty she owed to any member of her family. We cannot agree that the reason the claimant left work becomes

irrelevant to a determination of family status under these circumstances. The claimant left work because she intended to be married. If the marriage had been consummated as planned, an economic family unit would have been created consisting of the claimant and her husband. We would have looked to this family unit for determination of major support, not to the claimant's parents and sister. It is unrealistic and arbitrary to conclude that we must examine the claimant's major support status from the standpoint of considering her parents and sister as the family economic unit. The claimant did not leave her work because of any domestic duty, moral or legal obligation, owed to any or all of these individuals. It is apparent that under the reasoning adopted by the majority, a claimant who has no living family members will, nevertheless, not be entitled to the benefit of the major support provision. We do not conceive such a result to be within the legislative intent, and it certainly does not comport with the liberal interpretation which must be accorded the statute to effectuate the stated purposes of this remedial legislation (Garcia v. Calif. Emp. Stab. Com. (1945), 71 C.A. 2d 107, 161 P. 2d 972).

For such reasons, we would hold that the claimant, at the time she left her work and at the time she filed her claim for benefits, was a single person and was self-supporting. Although she was not a member of a family in the ordinary sense, she was entitled to the benefit of the "major support" proviso in section 1264 of the code and consequently was not ineligible for benefits by reason of that section.

LOWELL NELSON

DON BLEWETT